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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/647,237

08/26/2003

Kazunori Yamanaka

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23850

7590

03/08/2006

ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON, DC 20006

EXAMINER

LEE, BENNY T

ART UNIT

PAPER NUMBER

2817

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

H.A

Office Action Summary	Application No. 10/647,237	Applicant(s) YAMANAKA ET AL.	
	Examiner Benny Lee	Art Unit 2817	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-19; 20, 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 17 November 2005 has been entered.

The disclosure is objected to because of the following informalities: Page 6, line 1, note that “the” should be rephrased as --there are ^{two} and “are” should be rephrased as --which define-- for clarity of description. Appropriate correction is required.

Claims 1, 3-19; 20, 21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In claims 1, 20, note that the added limitation “and having other faces” does not appear to find support in the original specification, and thus has been treated as “new matter”. It should be noted that the “(001), (100) or (010)” are the only face orientations which are specifically defined by the original specification and no “other” face orientations appear to have been originally defined.

However, if applicants’ do not believe the above limitation is “new matter”, then an appropriate explanation must be provided, including pointing out where explicit support for the limitation in question can be found in the original specification.

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Claims 1, 3-19; 20, 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 3, note that it is unclear if “and having other faces” is the proper characterization of the invention. Note that “other faces” would normally be construed to mean “face” orientations other than “(001), (100) or (010)”, which does not appear consistent with applicants’ invention. Should --surfaces-- have been used instead of “faces”? Clarification is needed.

In claims 3, 9, last lines in each claim, note that the “m” parameters (i.e. m1, m2, m3, m4, m5) recited therein should properly be --p-- parameters for a proper characterization.

In claims 5, 6, note that it is unclear what characterizes “other members”. Clarification is needed.

In claim 15, note that the last paragraph herein recites the same subject matter, already recited in claim 6, from which this claim directly depends, thereby rendering the recitation herein redundant in view claim 6. Clarification is needed.

The following claims have been found objectionable for reasons set forth below:

In claims 3, 6, 9, 15, note that the recitation “any one kind or more...” should be rephrased such as to be a proper Markush format.

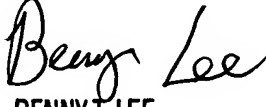
In claim 11, 12, note that “is made of” should be rewritten as --comprises-- for an appropriate characterization.

Claims 1, 3-19; 20, 21 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

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Any inquiry concerning this communication should be directed to Benny Lee at telephone number 571 272 1764.

B. Lee


BENNY T. LEE
PRIMARY EXAMINER
ART UNIT 2817